

Appl. No. 10/015,184

REMARKS

Claim 14 has been cancelled.

Claim 4 has been amended to indicate that  $R_2$  is the residue of isoleucine or valine. Support of this amendment can be found in the Specification on page 12, line 9.

Claims 7 and 8 have been amended to indicate that the propionyl moiety has the configuration of L-lactic acid. Support for this amendment can be found in the Specification on page 13, lines 6-12.

Rejections under 35 USC § 112

The Examiner has rejected claim 2 as being indefinite for the inclusion of the group " $-(CH_2)_q-$ " wherein  $q$  is defined as 0. The Examiner indicates that it is unclear why the formula has been written in this manner.

Applicants point the Examiner to original claim 2 which depended from claim 1, which was previously cancelled. Applicants also point the Examiner to page 12, lines 7-10 of the Specification. Applicants have maintained the nomenclature and structure of the written formula according to that which was originally presented in the application. Thus, Applicants respectfully request reconsideration and removal of the rejection.

The Examiner has rejected claim 4 as indefinite for the recitation of  $R_2$  as "an isoleucine or a valine derivative." The Examiner contends that the identity of a "derivative" would be difficult to ascertain.

Applicants have amended the claim removing the term "derivative" and indicating that  $R_2$  is the residue of isoleucine or valine in the compound. Thus, Applicants respectfully request reconsideration and removal of the rejection.

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The Examiner has rejected claims 7 and 8 as indefinite for recitation of the phrase "the propionyl moiety defines an L-lactic acid derivative." The Examiner contends that the identity of the derivative would be difficult to ascertain.

Applicants have amended claims 7 and 8, deleting the term "derivative" and indicating that the propionyl moiety has the configuration of L-lactic acid. Thus, Applicants respectfully request reconsideration and removal of the rejection.

The Examiner has rejected claim 14 for failure to further limit the claim from which it depends (claim 2).

Applicants have cancelled claim 14, thereby overcoming the rejection.

#### Double-Patenting

The Examiner has issued a non-statutory double-patenting rejection for claims 2, 4-8 and 10-18 as being unpatentable over claims 1-12 of US Patent No. 6,458,772. The Examiner indicates that while the conflicting claims are not identical, they are not patentably distinct from each other.

Applicants enclose a terminal disclaimer in compliance with 37 CFR 1.321(c), thereby overcoming the rejection.

In view of the above remarks, all of the claims remaining in the case are submitted as defining non-obvious, patentable subject matter.

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Conclusion

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicant respectfully petitions for a two (2) month extension of time for filing a response in connection with the present application and the required fee of \$420.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson (Reg. No. 30,330) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

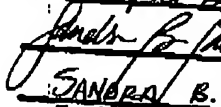
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Attachment(s): Terminal Disclaimer

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